



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1997

Mr. Madison Jechow
Bickerstaff, Heath, Smiley, Pollan,
Kever & McDaniel, L.L.P.
1700 Frost Bank Plaza
816 Congress Avenue
Austin, Texas 78701-2443

OR97-2744

Dear Mr. Jechow:

On behalf of the Capital Metropolitan Transportation Authority ("Capital Metro"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111879.

Capital Metro received a request for "[a]ny and all documentation, including but not limited to memos, cc mail, affidavits and reports related to missing computer equipment at Capital Metro from Jan. 1, 1997 to Oct. 10, 1997." You assert that the requested information is excepted from required public disclosure based on section 552.108 of the Government Code.

Section 552.108 reads in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Although section 552.108 by its terms applies to a law enforcement agency, the exception may apply to information gathered by an agency that is not a law enforcement agency when the information relates to an investigation which reveals criminal conduct that is reported to the appropriate law enforcement agency. *See* Open Records Decision No. 493 (1988).

You inform us that the Austin Police Department is currently investigating the missing computer. The requested information includes police reports related to the investigation by the Austin Police Department as well as documents that you say were supplied to the Austin Police Department as part of the investigation.

As Assistant City Attorney Ann Hardy has informed Capital Metro that the Austin Police Department's investigation is pending, we believe you have established that the release of the requested information would interfere with law enforcement. However, section 552.108 does not apply to the "basic information about an arrested person, an arrest or a crime." Gov't Code § 552.108(c); *see Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, with the exception of such basic information, Capital Metro may withhold the requested information from the requestors based on section 552.108 of the Government Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID#111879

Enclosures: Submitted documents

cc: Ms. Debbie Hiott
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(w/o enclosures)